

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARY JANE BEAUREGARD and JOHN
HUGH SMITH,

Plaintiffs,

v.

CLAYTON SAMPSON, et al.,

Defendants.

Case No. 2:20-cv-02123-KJD-DJA

**ORDER – Granting Motion to Preclude
Defendants from Testifying in Narrative
Form**

Presently before the Court is Plaintiffs’ Motion to Preclude Defendants from Testifying in Narrative Form (#118). Defendants filed a response in opposition (#120) to which Plaintiffs replied (#131). In addition, Defendants filed a response in opposition to Plaintiffs’ reply. (#132).

Plaintiffs move to preclude Defendants from offering testimony in a narrative fashion at trial. (#118). In their motion, Plaintiffs argue that allowing Defendants to testify in a narrative form would place “inadmissible, irrelevant and highly prejudicial material before the Court prior to Plaintiffs’ counsel having an opportunity to object.” *Id.* at 2. Plaintiffs further argue that allowing “[Defendants] to testify in narrative fashion would defeat the purpose and policy behind the Federal Rules of Evidence.” *Id.* As such, Plaintiffs request “this Court require Defendants . . . to offer testimony in question-and-answer format as opposed to narrative format, giving Plaintiff’s counsel an opportunity to object.” *Id.* In response, Defendants assert that Plaintiffs’ motion is “frivolous” and argue that not allowing them to testify in narrative form will prejudice their ability to present evidence. (#120, at 1).

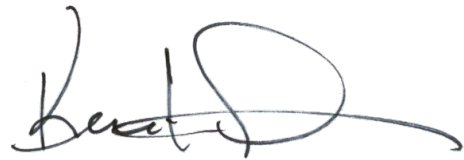
During trial, a court may exercise its discretion in deciding whether to allow a defendant to testify in narrative format or not. *See United States v. Savchenko*, 215 F. App’x 647, 648–49 (9th Cir. 2006); *see also United States v. Gallagher*, 99 F.3d 329, 331–32 (9th Cir.1996) (holding that district court did not abuse its discretion in preventing a defendant, who had previously testified with assistance of counsel, from testifying in a narrative fashion). The purpose of this decision is

1 to insure “that trial proceed[s] in an orderly and fair manner.” Gallagher, 99 F.3d at 329. After
2 reviewing the record, the Court finds that the most appropriate way forward is to have
3 Defendants testify in a question-and-answer format when called as their own witnesses.

4 Accordingly, **IT IS HEREBY ORDERED** that Plaintiffs’ Motion to Preclude Defendants
5 from Testifying in Narrative Form (#118) is **GRANTED**.

6 **IT IS FURTHER ORDERED** that, before the start of trial, Defendants must submit a list of
7 questions they intend to ask and answer when testifying as witnesses. Defendants are not
8 required to submit a list of questions for any other testifying witnesses. In the alternative, if the
9 Defendants prefer not to disclose their questions, they can have a “reader” pose them while on
10 the stand.

11
12 Dated this 28th day of December 2023.

A handwritten signature in black ink, appearing to read 'Kent J. Dawson', written over a horizontal line.

Kent J. Dawson
United States District Judge